

**REMARKS**

Claims 1-16 are pending, and Claims 1-16 have been rejected under 35 U.S.C. § 103(a) based on Miller (U.S. Patent No. 6,388,043) and BuyMedia.com ("BuyMedia") in view of Goodman (U.S. Patent No. 6,173,271). Claim 9 has been cancelled by the present Response, and Claims 1, 10, and 14 (the independent claims) have been amended by this Response. The Applicant respectfully traverses that rejection in view of the amendments presented herein.

**The Prior Art Fails to Teach or Suggest an Efficiency Rating System**

In the Applicant's system, once the schedules are generated, the system converts the schedule to a simplified format and applies a simplified efficiency rating system to the schedule. This process is described on pages 9 and 10 of the Application as follows:

Once the schedules are generated, the System converts the schedule to a simplified format and applies a simplified efficiency rating system to the schedule 125 (Fig. 1). The simplified rating methodology evaluates the performance of each schedule in reaching the advertiser's target customer and the degree of cost efficiency. Using the simplified methodology, the cost per point achieved by each schedule is matched with the market average 132 (Fig. 6). The difference, plus or minus, is converted to a percentage variance 134 (Fig. 6). The percentage of variance is applied and each schedule is assigned a numerical rating based on cost per point achieved relative to market average 136 (Fig. 6). Market average is assigned a 5.5 numerical rating (or 100%) based on a scale of 1 – 10. The scale moves in 1.0 increments (11.11% each) and achieved cost per point levels are pinpointed based on the percentage variation from the market average.

The higher the cost per point from the market average, the less efficient the radio station, television station or cable networks are in reaching the target demographic; the lower the cost per point from the market average, the more efficient the radio station, television station or cable networks are in reaching the target demographic. For example, with a market average cost per point of \$100, a \$133 cost per point would be higher than average (inefficient) but a cost per point of \$66 would be lower than average (efficient). Numerical ratings are identified by three categories, each representing 33.3% of the whole: Poor Efficiency, Good Efficiency, and Excellent Efficiency 138 (Fig. 6). The System then simplifies the schedules and produces a Simplified Rating System Chart that generally shows only flight dates, spot allocation, average unit cost, weekly cost and a total budget as illustrated in Fig. 9. Accompanying each schedule is the

Simplified Rating System Chart that indicates the numerical rating and efficiency category that applies to the particular schedule 140 (Fig. 6).

Claim 9 includes this step of “applying a rating system to the schedule and creating numerical ratings and efficiency categories for the schedule.” The Examiner asserts that this feature of Claim 9 is disclosed in Figure 7 of Miller. (Office Action, 12/3/03, page 6). The Applicant respectfully disagrees. In particular, Figure 7 shows “exemplary summary and station charts generated by the Einstein 1 routine.” (Miller, Col. 5, Ln. 24-26). The specific information displayed in Figure 7 of Miller is listed in Column 16, Lines 29-42 – and nowhere in that list is there a description of an efficiency category. Indeed, efficiency categories are not described anywhere in Miller.

To establish a *prima facie* case of obviousness, all of the limitations recited in the subject claim must be taught or suggested in the prior art. *In re Royka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974). It is respectfully suggested that the Examiner has failed to demonstrate that the Applicant’s rating system with efficiency categories is taught or suggested by any of the cited prior art.

Claim 9 has been cancelled, and the “efficiency category” feature of that claim has been incorporated by amendment into each of the independent claims. Accordingly, each of the pending claims includes the “efficiency category” feature, which is neither taught nor suggested by the cited prior art. As such, the Applicant respectfully submits that all of the pending claims as amended are in immediate condition for allowance.

#### **The Prior Art Fails to Teach or Suggest the System Selection Feature**

Further, in the Applicant’s system – and as also recited in each of the pending claims – the system selects a media outlet. This “system selection” feature is not disclosed in any of the cited art. Instead, in Miller and Buymedia, it is the buyer rather than the system that selects the media outlet. Specifically, with Miller, the set of media suppliers is an input to the system (*i.e.*, a guideline variable) and the selection process is left to the buyer. (Miller, Col. 10, Ln. 32-34; Col. 13, Ln. 5-7; Col. 13, Ln. 17-18; Fig. 4). Similarly, with the BuyMedia system, it is the buyer who “identifies which stations or systems to contact.” (BuyMedia.com Web Page, Page 2 of 4, submitted with 12-8-00 IDS). Goodman simply discloses an automated billing system for advertisements. Neither Miller, Goodman, nor BuyMedia

describes a system capable itself of selecting a subset of media outlets from user supplied information.

**The Prior Art Fails to Teach or Suggest the Reduced Time Feature**

An inherent benefit of the recited “system selection” feature is a reduction in the time required for the media buying process. To expedite the handling of this case, the Applicant earlier amended each of the pending independent claims to include this inherent benefit of the claimed “system selection” feature. The Examiner has asserted that this so-called “reduced duration” feature is present in Goodman, seemingly in the “duration of commercial” description in the Abstract and in Column 5. (Office Action, 12/30/04, Page 4). However, the reduction in time specified by each of the claims is a reduction in time of the “media buying process” – not a reduction in time of the advertising spots themselves. As such, Applicant respectfully traverses the Examiner’s assertion that the “reduction in time” feature present in each of the pending claims is disclosed by Goodman.

**Conclusion**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. HO-P02014US0/10207860 from which the undersigned is authorized to draw.

Dated: 3-26-04

Respectfully submitted,

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